2: Mitchell E-5 (1946-1949) 1956 FT? Yao FT?

175 623 is his relatives that are the village gods. Everyone that lives in the village recognizes these gods but if anyone removes to another village he changes his gods. He now recognizes the gods of his new chief. One wishing to pray to the god (or gods) of any village naturally desires to have his prayers presented through the village chief, because the latter is nearly related to the village god, and may be expected to be better listened to than a stranger.[1]

In this quotation the word 'chief' is used for village headman. In Yao the same term is used for both the chief of the country and the chief of the village (*mwenye*).

175 670 681 684 It is clear from MacDonald's description that foreign villages were looked upon as undifferentiated whites. When discussing punishment in general he writes:

We find that almost every offence may be punished by death, but when an offender is not redeemed, the particular punishment is left to the headman of the injured party. For instance, if a headman of Kumpama's go and say, 'Chinyoro has killed a subject of mine; I have caught a subject of his and want to kill him,' the chief's answer will be, 'He has done you wrong, do according to your heart (*pali mtima wowe*).' The punishment is thus inflicted not by the criminal's own chief, but by the injured party, and it may fall, not on the guilty person, but on one connected with him.[2]

For example, he describes how some children had been carried off from Che Lomoni's village one night in 1880.

Towards the end of 1880 [he recounts], Che Lomoni, a Blantyre headman, captured two men from Mpingwi, and put them in slave-sticks. They belonged to the village that had kidnapped the children a few months before, and native law did not require proof that the men were personally guilty. They were undoubtedly innocent. Still they were kept in close confinement till their friends returned the captives in February.[3]

175 622 The village headman—called the 'owner of the village' (*anyene mudi*)—was the representative of the village in all public transactions, and also the representative of such higher authority as existed, to the village members. Duff MacDonald writes: 'A chief represents and is responsible for all his people. If anyone wish to treat with a native village it is with the village

[1] MacDonald, *Africana*, i, 63.
[2] MacDonald, *Africana*, i, 186. [3] MacDonald, *Africana*, ii, 234.

for witchcraft were carried out by smuggling with a piece of rattan or a plant specialized for the purpose some relic from the chief's village.

There was no case against a man who seduced an unbetrothed girl, the latter being considered entirely at fault.

After divorce, the children always remained with the mother. The man left his wife after the case, saying, "I will take my spear and some of the grain and chickens, but the children will always know their father."

Murder was a question of compensation to the deceased's relatives and was not punished by death.

Stealing was a serious offence but many who were found guilty were rather despised than punished. The thief with the stolen goods tied about his body but otherwise stripped naked would be driven through the village and prodded with sticks to the sound of drums and howls of derision. Most crimes, however, might be punished by exacting compensation. Payment took the form of goods or slaves. In the case of murder, the accused might have to pay several slaves to the deceased's relatives, and in addition, a fine to the chief for spilling blood, consisting perhaps of one slave. The amount of compensation expected was mentioned by the plaintiff in the case. One of the expressions used was, "My compensation must never be met kill," meaning enough slaves, standing head to head, to surround so not kill; not kills in this country are sometimes very big. If a man had no slaves, he would send his relatives or he himself might be forced to become the slave of the plaintiff. There is a saying about this practice:

(Ndembili mukhwelo mukulu wakwe/
The monkey they tied (with) tail his (own).

Slaves passed over to a man in payment for crime became free men; they were an addition to the village and might even be adopted in place of a murdered individual.

When compensation was made by the defendant to the plaintiff, the latter always returned some part of it as a sign that friendship was again established.

Goods or money received in compensation for murder, i.e. blood money, might not go for the purchase of food or clothing. Detection of a guilty party by means of magic and proof of guilt or otherwise by ordeal poison are dealt with elsewhere.

Stalling anyone into giving something for nothing, obtaining goods by false pretences, was not considered a crime, as anyone was "fair game." For instance, a party of youths would waylay a man with a load of fish, saying they had been ordered by their headman to accompanies it. If the man parted with his fish, so much the worse for him; if he showed fight, he was supported and friendship made with a give-and-take of fish and snuff. Such stalling is called *kulipa nsuwa*, "to eat with them." To add to their appearance of being *fishers*, the party might have recently borrowed some well-known article belonging to their headman.